IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION - FOR CONTEMPT No. 1317 of 2004
In
SPECIAL CIVIL APPLICATION No. 12159 of 1993
With
SPECIAL CIVIL APPLICATION No. 12160 of 1993

For Approval and Signature:
HONOURABLE MR.JUSTICE R.P.DHOLAKIA :

HONOURABLE MR.JUSTICE DN PATEL :

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JUNAGADH JILLA MAZDOOR SANGH & 1 - Applicant(s)
Versus
G.R. DHORAJIYA OR HIS SUCCESSOIN OFFICE & 2 - Opponent(s)

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Appearance :
MRS DT SHAH for Applicant(s) : 1 - 2.
MR SV PARMAR for Opponent(s) : 1 - 2.
MR AJ DESAI AGP for Opponent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.P.DHOLAKIA

and

HONOURABLE MR.JUSTICE DN PATEL

Date : 25/07/2008

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE DN PATEL)

1. The present application has been preferred for initiating action under the provisions of Content of Courts Act for willful disobedience of the order passed by this Court dated 27th November, 2003 passed in Special Civil Application No.12159/1993 and allied matters.

2. Having heard learned counsel appearing for the respective parties and looking to the facts and circumstances of the present case, it appears that:-

   (i) A reference was preferred bearing ITR Nos.267/1998 & 268/1988 before the Industrial Tribunal, Rajkot. This Reference Applications were decided by a common award dated 13th October, 1992 by the Industrial Tribunal, Rajkot and direction was given that the concerned

workmen were to be made permanent and for the payment of salary and all other service benefits to the concerned ten workman.

(ii) It appears that several writ petitions were preferred, wherein initially interim direction was given vide order dated 3rd October, 1994. This interim direction was vacated and final direction was given on 27th November, 2003 while disposing of all these writ petitions and following direction was given in paragraph no.24 :-

> "24. The interim order, which has been passed by this Court dated 3rd October 1994 is also vacated with further direction to the District Panchayat, Junagadh and Director of Agriculture Department of the State of Gujarat to implement the award passed by the Industrial Tribunal, Rajkot in reference Nos. ITR No.267 of 1988 and 268 of 1988 dated 13th October 1992 and made permanent all the concerned 10 workmen as per the direction issued by the Tribunal and pay the salary and other all service benefits to the concerned 10 workmen with arrears as per the direction issued by the Tribunal and in between if any employee has been retired from service, then whatever benefits after retirement as per service condition of the District Panchayat, Junagadh is available to such retired employee, would be paid to such employee including pension, gratuity and other leave encashment and other service benefit, which are accrued in favor of the workmen concerned within a period of 3 months from the date of receiving the copy of the said order. In case during the pendency of the petition and after the award passed by the Tribunal, if any workman had died, then whatever benefits are available to such workman, the same shall be paid to the widow or other

legal heir within a period of 3 months from the date of receiving the copy of the said order."

In view of the aforesaid direction given in paragraph no.24 of the order, it is submitted by the learned counsel for the respondent nos.1 and 2 that the order passed by this Court as well as Industrial Tribunal, Rajkot has been complied with and the amount as directed in the aforesaid order has also been given to the workmen.

(iii) Learned counsel for the applicant has submitted that the amount offered is not adequate and certain amount is yet to be paid by the concerned respondent authorities to the workmen, but they will initiate appropriate proceedings before the appropriate Court for getting further accurate amount from the concerned respondents.

(iv) In view of the aforesaid, suffice it to say that there is a compliance of the order passed by this Court by the

respondents and there is no disobedience much less willful disobedience of the order passed by this Court by the respondents. Mistaken calculation of the arrears is required to be challenged by way of separate proceedings. Mistaken calculation as per the applicant is not a willful disobedience of the order passed by this Court, otherwise, in every payment, the person, who has to receive the amount, will not be satisfied and will always raise a question about the correctness of the figure. Mistaken calculation is a disputed right and when right is not crystallized by any order or where right is in belligerent stage, no contempt of Court actions can be initiated. Looking to the facts and circumstances of the present case, we are of the opinion that there is a proper compliances of the order passed by this Court by the

respondents.

3. As a cumulative effect of the aforesaid facts and circumstances of the present case, there is no substance in the present application. Hence, the present application is dismissed. Rule is discharged. All interim reliefs, if any, come to an end.

(R.P.DHOLAKIA, J.) (D.N. PATEL, J.)

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